

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34684 of 2015

Arising Out of PS.Case No. -301 Year- 2012 Thana -BISFI (PATAUNA) District- MADHUBANI

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1. Birbal Kumar Sahani @ Birbal Kasai @ Birbal Sahani Son of Late Fakir Sahani Resident of Village - Khatbey Tole Ushrahi, P.S. Patouna (Bisfi), District - Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav

For the Opposite Party/s : Mr. Atul Chandra(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

3 13-01-2016 Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

Learned Additional District & Sessions Judge-Ist, Madhubani has reported vide letter No. 272/15 dated 09-12-2015 that the case record was received in his court on 06-05-2013 and the case was pending for framing of charge at the time of receipt of the aforesaid record in his court. However, it would appear from the report that charge could be framed on 18-11-2014 i.e. more than after one year of receipt of the aforesaid record.

Although learned Additional District & Sessions Judge-Ist, Madhubani has tried to give explanation, regarding delay in framing of the charge, mentioning this fact that due to non-cooperation of the parties, charge could not be framed but I

am unable to accept the aforesaid explanation of the trial court because it is well-known fact that charge is framed by the court and there is no need of any assistance of the parties and, therefore, the aforesaid explanation of learned Additional District & Sessions Judge-Ist, Madhubani is nothing but only an eye-wash of the court.

It is not out of place to mention here that earlier prayer for bail of the petitioner was rejected by this court vide order dated 04-10-2013 passed in Cr. Misc. No. 13440 of 2013, directing the trial court to expedite the trial of the petitioner and again, this court vide order dated 25-06-2014 passed in Cr. Misc. No. 23716 of 2014, rejected the prayer for bail of the petitioner, directing the trial court to expedite the trial and conclude the same as early as possible but even after, issuance of direction twice by this court, the learned trial court did not wake up and slept on the matter for more than one year. However, learned trial court has reported that one witness has been examined and second witness has partly been cross-examined and the case was adjourned for cross-examination on the prayer of the petitioner. The learned trial court has sought four months' time to conclude the trial of the petitioner.

Considering the aforesaid facts and circumstances as

well as submission of the parties, prayer for bail of the petitioner in connection with Bisfi (Patauna) P.S. Case No. 301 of 2012 corresponding to Sessions Trial No. 52 of 2013 pending in the court of learned Additional District & Sessions Judge-Ist, Madhubani is, again rejected.

However, learned trial court is directed to conclude the trial of the petitioner within the above-said period of four months, even by taking the trial of the petitioner on day-to-day basis, failing which, the matter shall be reported to Standing Committee of this court for taking stern action. It is also made clear that if, the trial of the petitioner is not concluded within the above-stated period of four months, the petitioner may renew his prayer for bail before the learned trial court itself.

(Hemant Kumar Srivastava, J)

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